IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 22662 of 2004

Between:

B.Sudhakar Naik S/o.Kala Naik
Motanuthalapalli Thanda (V), Chandragiri (Post),
Pulivendula(M), Cuddapah Dist.

..... PETITIONER

AND

1 The A.P.State Road Transport Corporation, rep by its Managing Director
Musheerabad, Hyderabad.
2 The Regional Manager,APSRTC
Cuddapah Region, Cuddapah Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ order or direction or writ more particular one in the nature of Writ of Mandamus declaring the order passed by the 2nd Respondent in proceedings No.E6/684(1)99-RM'C' dt 19-10-2002 deleting the petitioner's name form the select list as illegal, unjust, amounts to an act of victimization and unfair labour practice and also violative of Article 14,16 and 21 of Constitution of India.

Counsel for the Petitioner:MR.G.RAVI MOHAN

Counsel for the Respondent Nos 1 & 2.: MR.P.VINAYAKA SWAMY, CENTRAL GOVERNMENT STANDING COUNSEL

The Court at the admission stage, made the following :

ORDER:

The petitioner worked as a Driver in the respondents-corporation. He was selected as a Driver in the year 1999 through the selection committee.

2. The petitioner contends that on 13.10.2001 he fell sick and the same was informed to the Depot Authorities. He underwent treatment and he was advised to take bed rest, due to which he could not attend duty during the strike period. Subsequently, the second respondent issued proceedings dated 19.10.2002 against the petitioner, alleging that the petitioner has not reported for duty during the strike period and deleting the name of the petitioner from the selected list. Therefore, his name was deleted from the approved panel of selected candidates without giving any prior notice or conducting any enquiry and without giving him any opportunity. The petitioner preferred an appeal to the appellate authority but the respondents refused to receive the said appeal stating that there is no appeal against deleting the name from the list of selected candidates. He, further, contends that this Court allowed the writ petition in W.P.No.4837 of 2003 in the matter of deleting the names of employees from the list of selected candidates without conducting any enquiry and the same was confirmed by the Division Bench of this Court in W.A.No.1259 of 2003, dated 29.08.2003. Hence, he approached this Court through this writ petition seeking a writ of mandamus declaring that the action of the second respondent through the proceedings dated 19.10.2002 deleting his name from the list of selected candidates as illegal, unjust, amounts to an act of victimization and also in violation of Articles 14,16 and 21 of the Constitution of India and to direct the second respondent to reinstate

him into service.

3. The respondents could not place any material to show whether any prior notice was issued or any enquiry was conducted against the petitioner for his unauthorized absence. In the absence of issuing prior notice or conducting any enquiry, the deletion of the name of the petitioner from the list of selected candidates cannot be sustained.

4. In the light of the circumstances, the order of the second respondent dated 19.10.2002 is set aside. The second respondent is directed to restore the name of the petitioner into the list of selected candidates and allow him to discharge his duties according to rules.

5. The writ petition is accordingly allowed. No order as to costs.

_____

K.C.Bhanu,j

Date: 08.12.2004

Bsv

To

1 The A.P.State Road Transport Corporation, rep by its Managing Director
Musheerabad, Hyderabad.
2 The Regional Manager,APSRTC
Cuddapah Region, Cuddapah Dist.

3. 2 CD copies